

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 12.11.341 and the adoption of)	PROPOSED AMENDMENT AND
New Rule I pertaining to aquatic)	ADOPTION
invasive species)	

TO: All Concerned Persons

1. On March 15, 2016, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 15, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 2 Office, 3201 Spurgin Road, Missoula, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 15, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 3 Office, 1400 South 19th Avenue, Bozeman, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 15, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 4 Office, 4600 Giant Springs Road, Great Falls, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 1 Office, 490 North Meridian Road, Kalispell, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 5 Office, 2300 Lake Elmo Drive, Billings, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 6 Office, 54078 U.S. Highway 2 West, Glasgow, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 7 Office, 352 I-94 Business Loop, Miles City,

Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than March 4, 2016, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.11.341 AQUATIC INVASIVE SPECIES INSPECTION STATIONS

(1) and (2) remain the same.

(3) Areas subject to the search include but are not limited to:

(a) through (c) remain the same.

(d) ballast tanks;

(d) and (e) remain the same but are renumbered (e) and (f).

(4) Any vessel at an inspection station found with invasive species will be decontaminated as arranged by the department ~~and must pass a second inspection prior to launching in Montana waters.~~ Decontamination methods may include hot water washing, hot water flushing, and drying time. A decontamination order may be issued that could require a drying period as directed by the department. During the drying period, the department may lock the vessel to the trailer to prevent launching, or put it in a secured location not accessible to the owner or operator until the drying period is complete. The vessel must pass a second inspection prior to launching in Montana waters.

AUTH: 80-7-1007, 80-7-1011, 80-7-1012, 87-1-201, MCA

IMP: 80-7-1007, 80-7-1011, MCA

4. The rule as proposed to be adopted provides as follows:

NEW RULE I REMOVAL OF VEGETATION AND PLUGS (1) Upon removing a vessel from any surface waters and before leaving the associated boat launch or parking area, all aquatic vegetation must be removed from the vessel, trailer, and equipment.

(2) Any drain plug, bailer, valves or other device that prevents water drainage from bilges, ballasts or livewells must be removed or opened during transport except where otherwise provided in current published fishing regulations. If the vessel does not have a plug, reasonable measures must be taken to dry or drain all compartments or spaces that hold water. Reasonable measures include emptying bilges, application of absorbents, and ventilation. The following are exempt:

(a) Emergency response vehicles and equipment engaged in emergency response activities; and

(b) Marine sanitary systems, closed engine cooling systems, and containers of drinking water.

AUTH: 80-7-1007, 80-7-1012, 87-1-201, MCA

IMP: 80-7-1007, MCA

REASON: The department is proposing to amend ARM 12.11.341 as well as adopt a new rule in efforts to further prevent the introduction of aquatic invasive species in Montana waters. In current ARM 12.11.341, the department is proposing to include ballast tanks to the list of items to inspect as a high risk vector, and clarify what the decontamination process entails because decontamination in some circumstances may require drying time. This will allow the department to ensure that a fouled vessel is fully decontaminated and is free of aquatic invasive species prior to launching in Montana waters. The proposed new (1) addresses the illegal transport of aquatic invasive vegetation. Current regulations state that it is illegal to transport aquatic invasive species. Because it is very difficult to determine if aquatic vegetation is invasive or not, the rule would require all vegetation to be removed. The proposed new (2) intends to reduce the threat of transport of aquatic invasive species through standing water in a vessel by removing the drain plug or any other device that prevents water drainage.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Fisheries Division, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpfsh@mt.gov, and must be received no later than March 25, 2016.

6. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its

web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

/s/ M. Jeff Hagener
M. Jeff Hagener
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 8, 2016.